

ORIGINAL

Reply Comments of RCN Telecom Services, Inc.
 CC Docket No. 99-200
 August 30, 1999

Before the
 Federal Communications Commission
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)	
)	
Numbering Resource Optimization)	CC Docket No. 99-200
)	
Connecticut Department of Public Utility)	RM No. 9258
Control Petition for Rulemaking to Amend the)	
Commission's Rules Prohibiting Technology-)	
Specific or Service-Specific Area Code Overlays)	
)	
Massachusetts Department of Telecommunications)	NSD File No. L-99-17
and Energy Petition for Waiver to Implement a)	
Technology-Specific Overlay in the 508, 617, 781,)	
and 978 Area Codes)	
)	
California Public Utilities Commission and the)	NSD File No. L-99-36
People of the State of California Petition for)	
Waiver to Implement a Technology-Specific or)	
Service-Specific Area Code)	

REPLY COMMENTS OF RCN TELECOM SERVICES, INC.

RCN Telecom Services, Inc. ("RCN"), by its undersigned counsel, hereby files its Reply Comments regarding the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding.¹ RCN notes the divergent views expressed by various industry segments in the initial round of commenting and the inclination to place the onus of number conservation on new

¹ *Numbering Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking, rel. June 2, 1999 ("NPRM").

market entrants. RCN strongly opposes this position and emphasizes that all carriers must participate in a coordinated, nationwide effort in order to slow number exhaust in a meaningful manner. Further, RCN believes that the most effective and appropriate means of number conservation is through increasing the efficiency with which telephone numbering resources are utilized, rather than restricting carrier access to numbering resources. Finally, the FCC must ensure that any measures it adopts in this proceeding are competitively neutral and continue to promote market entry by new entrants.

I. NEW MARKET ENTRANTS MUST NEITHER BE SINGLED OUT AS THE CAUSE NOR DISPROPORTIONATELY BURDENED WITH THE COSTS OF RESOLVING THE CURRENT NUMBERING SHORTAGE

As the FCC recognizes, the current numbering shortage is the combined result of many circumstances, including explosive growth in the telecommunications industry, the introduction of new services and competitors to the marketplace, and the constraints of an antiquated numbering plan that is a vestige of a bygone era.² Importantly, the FCC must dispel any ill-conceived notion that the numbering shortage has been caused by the competitive local exchange carrier ("CLEC") industry.³ Because the existing number allocation system is based on traditional incumbent local exchange carrier ("ILEC") rate centers, it is extremely wasteful⁴ and must be reworked to allow

² See NPRM ¶¶ 2-3.

³ See Comments of SBC Communications Inc. ("SBC Comments") at 9.

⁴ See, e.g., Comments of Omnipoint Communications, Inc. at 9 (citing wireless carriers' usage history as justification for non-participation in pooling); SBC Comments at 67 (advocating non-participation in pooling by carriers with high utilization thresholds); and Comments of US West

continued market entry and growth for all service providers. All carriers must do their part to conserve numbering resources and ensure continued carrier access to numbering resources. Incumbent carriers' historic use of numbering resources must not exempt them from participating in numbering conservation measures.⁵ Because all carriers use numbering resources, all carriers must be required to participate on a competitively-neutral basis in the conservation measures adopted in this proceeding to combat number exhaust.

II. A COORDINATED FEDERAL EFFORT HEADED BY NANPA IS ESSENTIAL TO ACHIEVING THE FCC'S GOALS OF SLOWING NUMBER EXHAUST AND PRESERVING THE LIFE OF THE NANP

Several commenters argue that various numbering conservation functions should be delegated to the states or left to carrier discretion.⁶ RCN is concerned that this would undermine any coordinated federal effort to slow number exhaust. RCN believes a uniform approach is necessary to combat number exhaust in an efficient and effective manner, consistent with the NPRM's goal

Communications, Inc. at 24 (supporting participation in pooling only by carriers unable to meet certain utilization thresholds).

⁵ See Comments of the Personal Communications Industry Association at 24; Comments of the Cellular Telecommunications Industry Association ("CTIA Comments") at 27.

⁶ See, e.g., Comments of the New Jersey Board of Public Utilities ("NJ-BPU Comments") at 4, 5 (arguing that state commissions should be empowered to conduct "for cause" audits and reclaim NXX blocks); Comments of the California Public Utilities Commission and of the People of the State of California ("CA-PUC Comments") at 17, 30-31 (advocating delegation of enforcement authority and authority to order local number portability ("LNP") to states); Comments of the Colorado Public Utility Commission at 9 (stating that ultimate numbering conservation decisions should be left to the states); and CTIA Comments at 15 (advancing that carriers or industry should be permitted to choose their own numbering optimization strategy).

of seeking "comment on how best to create national standards for numbering resource optimization."⁷ RCN agrees with the FCC's observations that substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for numbering conservation and area code relief.⁸ More seriously, the lack of uniformity could hamper industry efforts to conserve numbering resources and unnecessarily accelerate number exhaust.⁹ Based on the outcome of this proceeding and the implementation of a federal program, expanded state roles should not be necessary. Accordingly, RCN supports establishing NANPA as the single entity responsible for (1) collecting telephone number usage and forecast data for all users of numbering resources; (2) verifying the validity and accuracy of utilization data through the use of "for cause" audits; and (3) enforcing violations of numbering rules or guidelines.

III. UTILIZATION THRESHOLDS AND DETAILED SHOWINGS MUST NOT BE USED AS A BASIS FOR ASSIGNING INITIAL OR GROWTH CODES

Several commenters urge the Commission to tighten allocation of initial and/or growth codes through the use of utilization thresholds or special showings as a prerequisite to obtaining such

⁷ NPRM ¶ 6.

⁸ *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 13 FCC Rcd 19009 (1998).

⁹ Id. at 19022-23.

codes.¹⁰ RCN strongly opposes such measures because of their anti-competitive impact and disproportionate effect on new market entrants. Utilization thresholds and detailed showings impose significant administrative burdens on carriers and NANPA, without yielding a corresponding long-term benefit towards number conservation. These measures also particularly target CLECs¹¹ and unreasonably disadvantage new entrants. Further, establishing a percentage utilization threshold would be extremely costly and cumbersome because of the acute difficulty in ensuring competitive neutrality and non-discriminatory access to numbering resources. Rather than adopting discriminatory utilization thresholds and requiring unnecessarily detailed showings, RCN believes a more efficient allocation of carrier and NANPA resources would be achieved by concentrating efforts toward other measures identified in the NPRM that are more likely to have a greater overall impact on number conservation.

IV. THE FCC MUST RETAIN CURRENT NXX RECLAMATION TIMETABLES

As stated in its initial comments, RCN vehemently opposes the NPRM's proposals to significantly reduce the amount of time for (1) initial code reservations from 18 months to 3 months;

¹⁰ See, e.g., NJ-BPU Comments at 2 (advocating increased showing for initial and growth codes); CA-PUC Comments at 13 (supporting detailed showing for initial and growth codes); Comments of the New York State Department of Public Service Comments at 7 (requiring demonstration of imminent market entry prior to receipt of initial number assignment); Comments of the Virginia State Corporation Commission at 4 (implementing fill rate of 85-90% to remedy inefficient code utilization); and SBC Comments at 24 (advocating a uniform utilization threshold of 70% for all carriers).

¹¹ *Accord* Comments of the Association of Local Telecommunications Services ("ALTS Comments") at 7; Comments of Nextlink Communications, Inc. at 15-16.

and (2) potential extension of that reservation from 6 months to 30 days.¹² Numerous commenters, however, have filed in support of these proposals despite their serious ramifications for market entry.¹³ RCN requests the FCC to recognize the harmful and disproportionate impact these proposals would have on new entrants. The current intervals are necessary to facilitate entry of CLECs into the marketplace.¹⁴ Shortening these timeframes as drastically as proposed in the NPRM not only would seriously impede CLECs' ability to enter a new market but would impose difficulties in managing and allocating numbering resources for end users.¹⁵ These proposals merely constitute an ill-advised short-term "fix" which will likely only needlessly expend carriers' scarce administrative resources re-applying for numbers which have been hastily reclaimed, while not having any appreciable effect on slowing number exhaust. Accordingly, the FCC should decline to adopt its proposed modifications and retain the current reclamation timetables.

¹² NPRM ¶ 99.

¹³ *See, e.g.,* Comments of MediaOne Group, Inc. at 15.

¹⁴ *See* Comments of AT&T Corporation at 28; ALTS Comments at 18.

¹⁵ *See* Comments of GTE Service Corporation at 32.

V. THE FCC MUST ONLY ADOPT NUMBER CONSERVATION MEASURES WHICH ARE REASONABLY CALCULATED TO IMPROVE NUMBERING RESOURCE ALLOCATION WITHOUT IMPOSING UNDUE BURDENS OR COSTS ON CARRIERS

One of the FCC's goals in the instant proceeding is to ensure that no class of carrier or consumer is unduly favored or disfavored by its numbering optimization efforts.¹⁶ Several positions advanced by commenters, however, undermine this goal by shifting the burden of compliance to new entrants or making new numbers unnecessarily difficult to obtain on a going-forward basis. RCN warns the FCC to be mindful of this tendency.

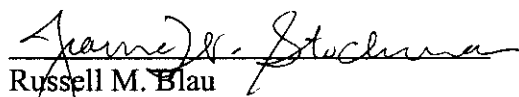
The FCC should carefully consider whether any proposed numbering optimization solution will significantly slow number exhaust and have a meaningful impact on number conservation, commensurate with the financial and administrative burden such solution would impose on all carriers. For example, implementation of thousands-block pooling requires significant expenditures by carriers to modify their equipment and administrative systems. Before this or any other method is adopted, the FCC must (1) accurately assess the degree of numbering conservation that will be realized through implementation; (2) balance that benefit with the corresponding financial and administrative burden that would be imposed on carriers; and (3) ensure that such burden is born in a non-discriminatory manner by all carriers throughout the industry. This is the most appropriate means of fulfilling the FCC's laudable and formidable objective.

¹⁶ NPRM ¶ 6.

VI. CONCLUSION

Numbers need to remain accessible to all carriers seeking to enter the local exchange market if facilities-based competition and its associated benefits are to take root throughout the marketplace. To maintain a level regulatory playing field, the FCC must ensure that all carriers participate equally in number conservation efforts and that those efforts have a competitively-neutral impact on the industry. These efforts are most effectively coordinated at the federal level due to the substantial social and economic costs would result if the uniformity of the North American Numbering Plan were compromised by states imposing varying and inconsistent regimes for numbering conservation and area code relief. RCN urges the FCC to focus on long-term solutions that promote efficient use of allocated numbering resources, rather than unduly restricting carriers' access to NXX codes. Finally, any solutions adopted by the FCC should be reasonably calculated to improve numbering resource allocation without imposing undue burdens or costs on carriers.

Respectfully submitted,



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